

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Susanna M. RYBAK et al.

Title: IMMUNOCONJUGATES OF
TOXINS, DIRECTED AGAINST
MALIGNANT CELLS

Appl. No.: 09/961,400

Filing Date: 09/25/2001

Examiner: Unknown

Art Unit: 1646

07/22/2002 MDAHTE1 00000005 09961400

04 FC:122 130.00 DP

PETITION UNDER 37 C.F.R. § 1.47(a)

Commissioner for Patents
Washington, D.C. 20231

Sir:

Applicant David M. Goldenberg hereby petitions to apply for grant for letters patent on behalf of himself and non-signing inventors Susanna M. Rybak and Dianne L. Newton as provided under 35 U.S.C. § 116. Submitted herewith is the required fee as set forth in 37 C.F.R. § 1.17(h). In support for this petition, I, Stephen B. Maebius, declare that:

1. I am legal representative of Immunomedics Inc., the company assigned the rights of one of the co-inventors of the captioned patent application, David M. Goldenberg.

2. I have firsthand knowledge of all the facts attested to in this petition.

3. On June 27, 2002, I sent copies of the captioned patent application and unexecuted Declaration and Power of Attorney ("Declaration") to Dr. Kenneth A. Weber, who is the legal representative of co-inventors Drs. Susanna M. Rybak and Dianne L. Newton. See Exhibits A (copy of letter to Kenneth A. Weber) and B (copy of airbill showing that the letter and application papers were sent on June 27, 2002).

4. The letter and application papers were delivered, received and signed for on June 28, 2002 at TOWNSEND & TOWNSEND & CREW, Two Embarcadero Center, Eighth Floor, San Francisco, CA 94111-3834, which is the business address of Dr. Weber. See Exhibit C (Detailed Report of DHL package tracking).

5. In the letter, I requested that Kenneth A. Weber return to me the Declaration signed by Susanna M. Rybak and Dianne L. Newton no later than July 15, 2002, after which I would accept no response as a refusal to sign by Drs. Rybak and Newton.

6. I received no response to the letter by June 15, 2002, or as of the date of this petition.

7. The last known address of Susanna M. Rybak is 7411B Round Hill Road, Frederick, MD 21702.

8. The last known address of Dianne L. Newton is 15904 New Bedford Drive, Rockville, MD 20855.

9. The present application, which is a divisional application of U.S. Pat. Ser. No. 09/622,613 ("613 application"), names Drs. Goldenberg, Rybak, and Newton as co-inventors. Based upon correspondence received from the other inventors' counsel, a second pending divisional application of the '613 application claiming substantially the same subject matter as claimed in the present application was filed naming only Drs. Rybak and Newton as inventors due to a dispute between the parties as to who conceived the claimed subject matter. Therefore, upon entry of the present application into examination on the merits, an interference proceeding will be requested between these applications in order for the United States Patent and Trademark Office to determine who conceived the claimed subject matter.

10. I hereby declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful

false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize that validity of the application or any patent issuing thereon.

* * * * *

It is respectfully submitted that the facts recited above are proof of the refusal to sign by non-signing inventors Rybak and Newton.

Respectfully submitted,

Date July 18, 2002

By Stephen B. Maebius

FOLEY & LARDNER

Customer Number: 22428



22428

PATENT TRADEMARK OFFICE

Telephone: (202) 672-5569

Facsimile: (202) 672-5399

Stephen B. Maebius

Attorney for Applicant

Registration No. 35,264

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

RECEIVED

JUL 24 2002

OFFICE OF PETITIONS